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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

-against-

UP TO \$6,100,000 ON DEPOSIT IN
ACCOUNT NO. ■■■5876 AT BANK JULIUS
BAER CO. LTD (GUERNSEY BRANCH);
AND

UP TO \$3,651,339 ON DEPOSIT IN
ACCOUNT NO. ■■■5568 AT BANK JULIUS
BAER CO. LTD (GUERNSEY BRANCH),

Defendants in Rem.

AJAZ RAHIM,

Claimant.

07 Civ. 04430 (RJS)

LOCAL CIVIL RULE 56.1 STATEMENT OF MATERIAL FACTS IN
SUPPORT OF MOTION TO DISMISS OR FOR SUMMARY JUDGMENT
BY PLAINTIFF UNITED STATES OF AMERICA

Pursuant to Rule 56.1 of the Local Civil Rules of the United States District Courts for the
Southern and Eastern Districts of New York, plaintiff United States of America respectfully
submits this statement of material facts as to which there can be no genuine dispute. The

documents cited below are attached to the Declaration of Joshua Klein (“Klein Decl.”), dated September 2, 2008.

1. On May 3, 2007, as a result of an investigation conducted by the Federal Bureau of Investigation (“FBI”), Criminal Complaint 07 Mag. 706 was filed in the Southern District of New York charging Naseem with one count of conspiracy to commit fraud in connection with the purchase and sale of securities, and 25 counts of substantive securities fraud. Based on the affidavit of FBI Special Agent Paul Higgins, a United States Magistrate Judge found probable cause that from in or about April 2006 through in or about February 2007, Naseem and others participated in a scheme to defraud by providing material, non-public information regarding forthcoming announcements relating to acquisitions of nine publicly traded companies to a co-conspirator, who then executed illegal trades in the securities of the target companies. (Klein Decl. ¶ 3) .

2. On May 29, 2007, as a result of the same investigation, Criminal Complaint 07 Mag. 859 was filed in the Southern District of New York charging Ajaz Rahim with one count of conspiracy to commit fraud in connection with the purchase and sale of securities, and 25 counts of substantive securities fraud. Based on the affidavit of Special Agent Higgins, a United States Magistrate Judge found probable cause that from in or about April 2006 through in or about February 2007, Rahim, Naseem and others participated in a scheme to defraud by executing the illegal securities transactions described above. (Klein Decl., ¶ 4, &

3. On or about May 30, 2007, the United States filed Verified Complaint No. 07 Civ. 4430 (RJS) (the “Verified Complaint”) seeking forfeiture of up to \$6,100,000 on deposit in Account No. ■■■5876 at Bank Julius Baer Co. Ltd. (Guernsey Branch) (“Account A”); and up to \$3,651,339 on deposit in Account No. ■■■5568 at Bank Julius Baer Co. Ltd. (Guernsey Branch)

(“Account B”) (hereinafter referred to collectively as the “Defendant Funds”). The Verified Complaint alleges that the Defendant Funds are forfeitable pursuant to 18 U.S.C.

§§ 981(a)(1)(C) and 984 as property constituting or derived from proceeds traceable to specified unlawful activity, namely, fraud in the sale of securities, in violation of 15 U.S.C. §§ 78j(b) and 78ff, and 17 C.F.R. §§ 240.10b-5 and 240.10b5-2.¹ (See Klein Decl., ¶ 5 & Ex. 1).

4. On or about October 18, 2008, Ajaz Rahim filed a Verified Statement of Interest claiming an interest in the Defendant Funds, pursuant to Rule G(5)(a) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions. (Klein Decl., ¶ 7 & Ex. 3).

5. On or about July 3, 2007, a federal grand jury in the United States District Court for the Southern District of New York issued Indictment 07 Cr. 610 in 26 counts, charging Naseem and Rahim with conspiracy to commit securities fraud and substantive securities fraud. On or about November 20, 2007, Superseding Indictment S1 07 Cr. 610 was returned in 29 counts, containing substantially the same allegations. (The Superseding Indictment is referred to hereinafter as the “Indictment”). (Klein Decl., ¶ 9 & Ex. 4).

6. The allegations of the Verified Complaint are substantially similar to those set forth in the Indictment and the Criminal Complaints. The same criminal conduct underlies both the above-captioned case and the Related Criminal Case. (Klein Decl., ¶¶ 6, 10, 14-15 & Ex. 1, ¶¶ 4-7, Ex. 4 ¶¶ 6-8).

7. The Indictment also contains a criminal forfeiture allegation pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2641 seeking forfeiture of all property constituting or derived from proceeds traceable to the charged offenses. (Klein Decl., ¶ 12 & Ex. 4, ¶¶ 15-16).

¹ A copy of the Verified Complaint is attached to the Klein Declaration as Exhibit 1. A copy of the docket sheet in the above-captioned case is attached to the Klein Declaration as Exhibit 2.

8. An arrest warrant was issued for Rahim based on the charges in the Indictment. (Klein Decl., ¶ 9).

9. On or about October 9, 2007, the Government filed a Bill of Particulars providing notice that the property subject to forfeiture as proceeds of the offenses charged in the Indictment includes all of Rahim's right, title and interest in the Defendant Funds. (Klein Decl., ¶ 13 & Ex. 5).

10. Rahim has not been arrested here or abroad or otherwise appeared in the Related Criminal Case. (Klein Decl., ¶ 17).

11. Rahim is aware of the Indictment and the charges outstanding against him. (Klein Decl., ¶ 9, 17-18).

Dated: New York, New York
September 2, 2008

Respectfully submitted,

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Southern District of New York
Attorney for Plaintiff
United States of America

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